IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SIXTEENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI JUSTICE C.V.RAMULU

-

WRIT PETITION No.18710 of 1995

Between:

The Management of Singareni Collieries Company Limited,
Bellampalli, Adilabad District, AP ,
Represented by its General Manager, Bellampalli Area.

..... PETITIONER

AND

1 The Industrial Tribunal-I,
Chandra Vihar, M.J. Road, Hyderabad,
represented by the its Presiding Officer.
2 The Workmen of Singareni Collieries Company Limited,
Bellampalli, Adilabad District, AP,
Represented by the Chief-Vice President,

S.C. Workers' Union (AITUC), Bellampalli.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court ay be pleased to issue an order, direction or a writ particularly one in the nature of WRIT OF CERTIORARI after calling or the records from the first respondent in I.D.No.71 of 1987 and quash the Award passed therein dated 2.2.1994.

Counsel for the Petitioner: Mr. K.SRINIVASAMURTHY

Counsel for the Respondent No.1: GP FOR LABOUR

Counsel for the Respondent No.2: None appeared

The Court made the following :

ORAL ORDER:

This writ petition is filed by the Management of Singareni Collieries Company Limited being aggrieved by the Award dated 2-2-1994 in I.D.No.71 of 1987 on the file of the Industrial Tribunal I, Hyderabad.

It is an unfortunate case that the workman – Konda Chalaiah (since died) - while occupying the company quarter laid extended construction of 12' x 24' adjacent to it and made temporary accommodation to his family for which he was issued with a charge sheet dated 15-12-1984 stating that in spite of the fact that he was asked to remove the structure of room, did not do so. Therefore, he committed a misconduct under the Company's Standing Order Nos.16(1) and 16(2), insubordination and dishonesty in connection with Company's business. The workman submitted his explanation stating that in view of the fact that the accommodation provided to him was not sufficient, he made some temporary arrangement for his children. This was taken to be a serious misconduct and after conducting enquiry into the matter, dismissed the workman from service. Aggrieved by the same, he raised an industrial dispute and the same was finally referred to the Tribunal for adjudication of the following issue:

> "Whether the action on the part of the Management of M/s.Singareni Collieries Co.Ltd., Bellampalli, in dismissing he services of Sri Konda Chalamaiah, Sanitary Muccadam, Health Department, Bellampalli, with effect from 29-7-1986 is fair and justified ? If not, to what relief the workman is entitled ?"

The I.D. was raised in the representative capacity by the Union and in the meanwhile, the workman Konda Chalamaiah died on 27-10-1987. Thereafter, the matter was pursued by his legal heirs.

Before the Tribunal, on behalf of the workman, no oral or documentary evidence was adduced, but for the Management, M.Ws.1 & 2 were examined and Exs.M1 to M7 were marked. After appreciation of the entire evidence on record, the Tribunal came to the conclusion that the dismissal of the workman was quite unfair and unjustified and, therefore, the workman was entitled for full back wages and all other attendant benefits till the date of his death i.e. 29-10-1987 and the same shall be paid to Smt. Konda Maramma, the wife of the workman.

Learned counsel for the petitioner-management contended that the workman himself admitted the mistake and, therefore, it cannot be said that the punishment of dismissal from service was disproportionate to that of the charge proved. The Tribunal further went wrong in exercising its discretionary powers under Section 11-A of the Industrial Disputes Act,1947 in a case like this. Simply because there is no loss caused to the company, that itself does not mean that there was no misconduct on the part of the workman.

I have gone through the impugned Award. The Tribunal having discussed each and every aspect of the evidence, rightly came to the conclusion that as per the Certified Standing Orders of the Company, to occupy company's land does not come under the misconduct. In this regard, the Tribunal had considered the decisions in **RASIKLA v. AHMEDABAD MUNICIPAL CORPORATION, P.B. RACHO v. UNION OF INDIA** and **NANDITA B. PALEKAR v. Y.S. KASHBEKA AND OTHERS** and observed that even deliberate breach of contract also cannot be deemed to be breach of discipline warranting disciplinary action. The remedy was to take action for eviction of the employee from the quarter; whereas, in the instant case, the workman was dismissed from service. There was no need for suspending or dismissing the workman. As a matter of fact, there was no need of the piece of land of 12' x 24' to the management, but it was taken only a pretext to victimize the workman. The Management has no right to take three kinds of disciplinary actions for the same charge of occupying the land of 12'x24' even though it is not a misconduct. Further, the Tribunal noticed that the treble punishments to the

workman were malicious and it is nothing but climax of victimization.

Admittedly, the only misconduct alleged against the workman was that he had occupied company's land of 12' x 24' adjoining the quarter allotted to him and made temporary shed therein. Under those circumstances, the remedy left open for the management was to evict him as per law. The Tribunal has rightly come to the conclusion that the order of dismissal was malicious and unfair. There is no other way of looking at the matter and no other opinion can be expressed than the one, which was expressed by the Tribunal. The writ petition is devoid of merits and liable to be dismissed.

Accordingly, the writ petition is dismissed. No costs.

16-12-2004

prk

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Presiding Officer, Industrial Tribunal-I,
Chandra Vihar, M.J. Road, Hyderabad,

2 The Chief-Vice President,

S.C. Workers' Union (AITUC), Singareni Collieries Company Limited,
Bellampalli, Adilabad District, AP,
3 2CCs to G.P. for Labour, High Court Buildings, Hyderabad (OUT)

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